

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:02-CR-00037-KDB**

USA,

Plaintiffs,

v.

KEVIN MAURICE LINDER,

Defendants.

ORDER

THIS MATTER is before the Court on Defendant's pro se motion for reconsideration of an order denying a sentence reduction under Amendment 780 and 782 to the Sentencing Guidelines. (Doc. No. 643).

I. Amendment 782

Defendant seeks modification or reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines (USSG). On May 12, 2015, this court ruled that Amendment 782 provides no change in the guideline calculations in this case and denied Defendant's previous motion for reduction of his sentence. (Doc. No. 638).

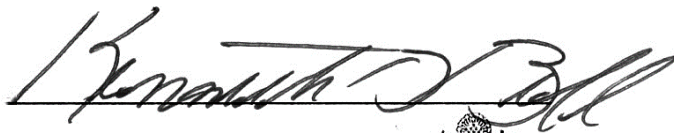
Amendment 782 provides no change in Defendant's guideline calculations due to his status as a Career Offender. (*See* Doc. No. 636, at 2). Additionally, pursuant to USSG §1B1.10(b)(2)(A), if the previous sentence was a variance from the previous guideline range, the term of imprisonment cannot be reduced to less than the amended guideline range. Therefore, Defendant's request for modification or reduction of his sentence under Amendment 782 is denied.

II. Appointment of Counsel

Additionally, Defendant asks that the Court to appoint him counsel to assist him in his request to reconsider denial of a sentence reduction under Amendment 782. However, “a criminal defendant has no right to counsel beyond his first appeal.” *United States v. Legree*, 205 F.3d 724, 730 (4th Cir. 2000) (quoting *Coleman v. Thompson*, 501 U.S. 722, 756 (1991)). “Though in some exceptional cases due process does mandate the appointment of counsel for certain postconviction proceedings, . . . [a] motion for reduction of sentence does not fit into this category.” *Legree*, 205 F.3d at 730 (internal citation omitted). Therefore, in the absence of any exceptional circumstances, the Court finds no reason to appoint counsel to represent Defendant at this time.

IT IS, THEREFORE, ORDERED that Defendant’s motion (Doc. No. 643) is **DENIED**.

Signed: November 19, 2019



Kenneth D. Bell
United States District Judge

